THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.21064 of 2005

Date:05.10.2005

R.M.Gopal.

--------PETITIONER

District Co-operative Officer (FAC) and another.

---------RESPONDENTS

ORDER:

The petitioner retired as a Secretary in Bhimavaram Co-operative Urban Bank Limited, the 2nd respondent, with effect from 31.07.2005. The District Cooperative Officer, West Godavari, 1st respondent, addressed a letter, dated 19.07.2005, to the Management of the Bank, directing them not to pay the retirement benefits to the petitioner, on the ground that an enquiry is contemplated into the allegations against the petitioner. It was further indicated to the effect that the Bank is under moratorium. Acting on this, the 2nd respondent withheld the retirement benefits to the petitioner. The same is challenged in this writ petition.

Smt Kavitha, the learned counsel for the petitioner submits that as on today, no disciplinary proceedings are initiated against the petitioner and in that view of the matter, the respondents cannot withhold the retirement benefits. She contends that most of the retirement benefits are nothing but the accumulation of the contributions made by the petitioner and that the enactments, such as the Payment of Gratuity Act, prohibit withholding of such amounts. It is also her case that the so-called moratorium cannot be treated as a factor to deny the statutory benefits to the petitioner.

The learned Government Pleader for Cooperation and the learned Standing Counsel for the 2nd respondent, on the other hand, submit that under the existing service regulations, it is competent for the Management to withhold the service benefits, in case any disciplinary proceedings are contemplated. They contend that if the amounts are paid to the petitioner and ultimately he is found guilty, nothing would be available to withhold.

The petitioner retired from the service of the 2nd respondent-Bank, on attaining the age of superannuation. Time and again, the Supreme Court held that the benefits, which an employee derives at the time of retirement, are almost on par with the right to property. Such rights of an employee can be defeated, only on the strength of unequivocal provisions or disciplinary proceedings that have been initiated, in accordance with law. Even a perusal of the impugned order discloses that as of now, no disciplinary proceedings are pending against the petitioner. Withholding the amounts is, at the most, in contemplation of the enquiry into the allegations. The curious part of the matter is that the employer of the petitioner did not contemplate any enquiry. The 1st respondent has absolutely no role, in the matter of disciplinary proceedings against the employees of the 2nd respondent. The other ground pressed into service is viz., the existence of moratorium cannot be permitted to defeat the rights of the petitioner to receive the retirement benefits.

For the foregoing reasons, the writ petition is allowed, and the 2nd respondent is directed to release such of the retirement benefits, that have not been paid to the petitioner so far, within a period of six weeks from today. There shall be no order as to costs.

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05.10.2005

Jsu